

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PHILIP BERRYMAN, and
HARRY T. RITCHIE,

Plaintiffs,

v.

RANDALL HAAS,
HEATHER COOPER,
KRISTOPHER STEECE,
ERIN PARR-MIRZA,
AMIE JENKINS,
LISA ADRAY,
CAROLINE RIVARD-BABISCH,
JOHN DOES, and
JANE DOES,

Defendants.

Case No. 17-cv-10762
Honorable Laurie J. Michelson
Magistrate Judge Patricia T. Morris

**ORDER REGARDING REPORT AND RECOMMENDATION [76] AND
GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT [71]**

Before the Court is Magistrate Judge Patricia T. Morris' Report and Recommendation. (R. 76.) At the conclusion of her March 13, 2018 Report and Recommendation, Magistrate Judge Morris notified the parties that they were required to file any objections within 14 days of service, as provided in Federal Rule of Civil Procedure 72(b)(2) and Eastern District of Michigan Local Rule 72.1(d), and that "[f]ailure to file specific objections constitutes a waiver of any further right of appeal." (R. 76, PID 620.) It is now April 12, 2018. As such, the time to file objections has expired. And no objections have been filed.

The Court finds that the parties' failure to object is a procedural default, waiving review of the Magistrate Judge's findings by this Court. In *United States v. Walters*, 638 F.2d 947, 949–50 (6th Cir. 1981), the Sixth Circuit established a rule of procedural default, holding that "a party

shall file objections with the district court or else waive right to appeal.” And in *Thomas v. Arn*, 474 U.S. 140, 144 (1985), the Supreme Court explained that the Sixth Circuit’s waiver-of-appellate-review rule rested on the assumption “that the failure to object may constitute a procedural default waiving review even at the district court level.” 474 U.S. at 149; *see also Garrison v. Equifax Info. Servs., LLC*, No. 10-13990, 2012 WL 1278044, at *8 (E.D. Mich. Apr. 16, 2012) (“The Court is not obligated to review the portions of the report to which no objection was made.” (citing *Thomas*, 474 U.S. at 149–52)). The Court further held that this rule violates neither the Federal Magistrates Act nor the Federal Constitution.

The Court therefore finds that the parties have waived further review of the Magistrate Judge’s Report and accepts her recommended disposition. It follows that this Court GRANTS Defendants’ motion for summary judgment (R. 71) and that Ritchie’s retaliation claim is DISMISSED WITHOUT PREJUDICE and his deliberate-indifference claim is DISMISSED WITH PREJUDICE.

SO ORDERED.

Dated: April 12, 2018

s/Laurie J. Michelson
LAURIE J. MICHELSON
U.S. DISTRICT JUDGE

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court’s ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on April 12, 2018.

s/Keisha Jackson
Case Manager